

SERVICE DATE – LATE RELEASE APRIL 15, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 726X)

CSX TRANSPORTATION, INC.—ABANDONMENT AND DISCONTINUANCE OF  
SERVICE EXEMPTION—IN THE CITY OF RICHMOND AND HENRICO COUNTY, VA.

Docket No. AB 290 (Sub-No. 303X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT AND  
DISCONTINUANCE OF SERVICE EXEMPTION—IN THE CITY OF RICHMOND AND  
HENRICO COUNTY, VA.

Decided: April 14, 2015

By petition filed on February 21, 2013, CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR) (collectively, Petitioners) jointly sought an exemption under 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10903 for CSXT and NSR to abandon and discontinue service over a 1.55-mile railroad line known as the James River Industrial Track, between State Road 5 and the end of the line, located in the City of Richmond and Henrico County, Va. (the Line).<sup>1</sup> Notice of the exemption was served and published in the Federal Register on March 13, 2013 (78 Fed. Reg. 16,045-46). By decision and Notice of Interim Trail Use (NITU) served on June 6, 2013, a 180-day period was authorized for the City of Richmond (City) and the Virginia Department of Transportation (VDOT) to negotiate an interim trail use/rail banking agreement with Petitioners for separate portions of the right-of-way involved in this proceeding.<sup>2</sup> The City filed a request for imposition of a public use condition and issuance of a NITU for a 0.468-mile portion of the Line extending from the City of Richmond-Henrico County boundary line to the northern end of the Line. VDOT filed a request for imposition of a public use condition and issuance of a NITU for a 0.650-mile portion of the Line extending from the City of Richmond-Henrico County boundary line to the southern end of the Line. By multiple decisions, the NITU negotiating period was extended with the City until July 11, 2015, and with VDOT until May 27, 2015.

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<sup>1</sup> Petitioners state that there are no mileposts on the Line.

<sup>2</sup> The decision and notice also made the exemption subject to the following environmental conditions, requiring Petitioners to: (1) consult with the U.S. Army Corps of Engineers, Norfolk District, regarding potential impacts of salvage activities to adjacent wetlands prior to initiating any salvage activities on the Line; and (2) consult with the National Geodetic Survey at least 90 days prior to beginning any salvage activities that would disturb or destroy any geodetic station markers. These conditions remain in effect.

On March 27, 2015, NSR filed a request, pursuant to 49 C.F.R. § 1152.29(d)(2), for the Board to vacate the NITU as it pertains to NSR's interests in the Line. NSR states that it intends to consummate its abandonment once the Board vacates the NITU. On March 31, 2015, CSXT also filed a request for the Board to vacate the NITU and issue a decision permitting immediate abandonment and discontinuance of service of the Line. On April 1, 2015, VDOT filed a letter in support of the requests of NSR and CSXT. VDOT requests that the Board act expeditiously in vacating the NITU because the Richmond area is hosting the UCI Road World Championships bike race in September and states that once abandonment is consummated, the bicycle trail can be constructed outside of the NITU process.

NSR and CSXT have complied with the requirements of 49 C.F.R. § 1152.29(d)(2) regarding a request to vacate a NITU. Therefore, their requests will be granted. Because the existing NITU is being vacated, Petitioners' abandonment and discontinuance authority will be reinstated. If Petitioners choose to abandon the line, each railroad must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2) by June 15, 2015. If NSR or CSXT do not timely file a notice of consummation, and there are no legal or regulatory barriers to consummation, the abandonment authority will automatically expire.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on June 6, 2013, is vacated.
3. The abandonment and discontinuance authority issued on June 6, 2013, as conditioned, is hereby reinstated.
4. If NSR and/or CSXT choose to abandon the Line, notice of consummation must be filed by June 15, 2015.
5. This decision will be served on the City's representative: Christopher Beschler, Deputy Chief Administrative Officer, 730 East Broad Street, 6th Floor, Richmond, VA 23219, and VDOT's representative: Joseph V. Jagdmann, Sr. Assistant Attorney General, 900 East Main Street, Richmond, VA 23219.

6. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.